

R. A. A.
A

SECOND LETTER

FROM A FRIEND

To the Right Honourable



Ubi semel recto deeratum est in Præceptis pervenitur—a rectis
invitia, a vitiis in prava, a pravis in Præcipitia. Vell. Pater.

Self-Love, is the Love of one's Self, and of every thing else for one's own
Sake : It makes a Man the Idolater of himself, and the Tyrant of others.
Rochefaucault.

My LORD,

I Think the best Service Men employ'd by his Majesty can do for him and this Country, is to shew such Prudence and Temper in their Behaviours as may convince every Man they are not intrusted with any Power but what is necessary and will always be exercised for the *Advantage and Security* of his Majesties Subjects.

For my own part I hold it the Duty of every Man tho' he has not the Honour of serving his Majesty in publick Employment, not only, not to misrepresent the Actions of his Servants, but in Matters of small Concern, to wink at their Follies and Mistakes; I know the *Jacobites* and *Papists* our irreconcilable Enemies are too watchful to lay hold of every Occasion to misrepresent his Majesty and turn the Faults of ambitious and self-interested Servants upon the *Best of Kings*.

I hear some Men say, that in my last to your Lordship, there appears more of the Satyrist, than becomes a Man engaged merely in the Defence of Liberty and Justice; But I am satisfy'd I can with Charity affirm, they are either such as have no Knowledge of the several Steps have been taken to bring this poor Country into *Ruin and Disgrace*, or they are of the Number of those who have had a Share in the *Actings and Contrivances* against it; for my Lord, he must rather be an insensible Stoick than an angry Cynick, who can survey the Measures of some Men without *Horror and Indignation*—To see Men act as if they had never taken an Oath of Fidelity to their King, whose Interest is inseparable from that of his People, but had sworn to support the *Ruinous Projects* of abandon'd Men (of whatever Faction) must rouse the most Lethargick if *Honest Soul*.

I who have always profess'd my self a *Whig* do confess it has mine.

I beg leave in this Place to explain what I intended in my last by the Words, *Unless by Leave or Order of the Court*, lest whilst I plead for Justice I should do an Injury to your Lordship.

I declare I never heard that Story of your Lordship, and I hope no Man did believe it of you. My Intention was by that Hint to remember you of Judge

U—p—n and a certain *Affizes* held at *Wicklow*, as I believe your Lordship understood it, and as I now desire all the World may.

Having learn'd from your Lordship and other Lawyers of *undoubted Abilities*, that no Judge ought by Threats or Circumvention to make a Grand-Jury-Man discover the Kings Counsel his Fellows or his own I should not at present say any thing in support of that Position. But that I find a most *ridiculous and false Explanation* seem to mislead some Men in that Point: Say they, by the Word Counsel is understood, such Bills as are before the Grand-Jury and the Evidence the Prosecutors for the Crown have to support the Charge against the Subject—Least that being known the Party indictable may fly from Justice, or he may procure false Witnesses to discredit the Evidence for the King, or he may by Bribes and other indirect Measures take off the Witnesses for the Crown.

I confess I take that to be the meaning of the Word Counsel, but I am certain that is not *All* that is meant by it, that is what must be understood when it is call'd the *King's Counsel*, *id est*, the Counsel or Reasons for which the King by his Servants, his Attorney General or Coroner, has drawn and sent to the Grand Jury a Charge against a Subject.

But the Counsel of a Juror is a Different Thing, it is the Evidence, the *Motives and Reasons* that induce him or his Fellow Jurors to say *Billa vera* or *Ignoramus*, and the *Opinion* he or they happen to be of when the Question is put by the Foreman for finding or not finding: This Counsel every Man is sworn to keep Secret, that so their *Opinion and Advice* may not be of *Prejudice* to them hereafter. That as they are sworn to act without *Favour or Affection* so may they also act without FEAR. Whereas, were otherwise the Spirit of Revenge is so Universal, there are but few Cases wherein a Juror could act with Safety himself; either the Prosecuted, as where the Bill is found or the Prosecutor, where it is return'd *Ignoramus*, may contrive to defame the Jurors who differs from their Opinion: As I am told has happen'd to some very honest Citizens who are Represented to be *Jacobites* since their Opinions were known to be against—
And sometimes Revenge or *Ambition* may prompt Men carry it further, as in the Case of Mr. *Wilmer*, who in

Cha. 2d's Time was very severely handled for being one of an *Ignoramus Jury*. — 'Tis not necessary to say whom he disobligh'd by being so. — But if I remember right his Case was this:

He was a Merchant, (and as I said, an *Ignoramus Jury-man*) had covenanted with a Servant Boy to serve him in the *West Indies*, and accordingly sent him beyond Sea: Upon Suggestion and Affidavit by which any Person might have it, a Writ de *Homine Replegiando* was granted against Mr. Wilmer; the Sheriffs would have return'd on the Writ the Agreement and the Boy's Consent, but the Court (in the Case of *this Wilmer*) *Easter 34. Cha. 2. in B. R.* ruled they must return *Replegiari fecimus* or *Elongavit*, that is, they had replevy'd the Boy, or that Wilmer had carried him away where they could not find him, in which last Case Mr. Wilmer, tho' an Innocent Person must have gone to Goal until he brought the Boy into Court or he must have been *Out-Law'd*. — *Shower's Rep. 2 Part.*

I do not say this that I think the same thing will be practis'd again, or any thing like it, tho' I know that very homely Proverb, *more Ways of killing a Dog than hanging him*. — But I instance it to shew, the Counsels of every Grand jury-man shou'd be kept Secret, that he may act freely and without Apprehensions of Resentment from the Prosecuted or Prosecutor.

My Resolution when I writ to you last, was, not to have said any thing in this concerning the Power of Dissolving or Dispensing, but as I have been forc'd to say something of the Dispensing, for the same Reason I must of the Dissolving Power. — A Power undoubtedly in Effect including that of Returning, which makes me with two Men of great Interest in this Kingdom, differing in every other thing, had not undertaken to defend it, or they had better Reasons for it than I have yet heard.

'Tis said, 'This Power is in the Court as a Right of Resistance is in the People, as the People have a Power superiour to the Prerogative of the Prince, tho' no Written or Express Law for it; so of Necessity tho' no Statute directs it, and it may seem to overturn the greatest Security Men have for their Liberties, yet the Court has a Power of Dissolving Grand-Juries, if they refuse to find or present as the Court shall direct.

Pray let us consider how well this concludes:

The People may do any thing in Defence of their Lives, their Religion and Liberties, and consequently Resistance is lawful, therefore an Inferiour Court a *Bene placito Judge* ay — Monstrous Absurdity.

Another, I am Sorry I can't say more modest Argument Support it is this. —

Considering say they Grand Juries, it is but reasonable a Discretionary Power of Dissolving them shou'd be lodg'd in the Judges.

By the Words Considering Grand-Juries, I must understand Considering their Understandings, their Fortunes or their Integrity, for from a Want of one or more of those Qualifications must arise the Reason of such a Discretionary Power the Judges.

Tho' I shall not urge it as far as I cou'd. I will venture to say the Argument is at least as strong the other way — Considering the Judges. —

First as to their Understandings, it must be confels'd the Benches are infinitely Superiour to the Lower Professors of the Law: Yet surely it can't give Offence to say the Gentlemen of the several Counties have Understandings Sufficient to discharge the Duty of Grand jury-men — If want of Fortune be an Objection to Grand-jury-men, a *pari Ratione*, it is an Objection to some other Men. — Besides, that the Fact is not true, for in their Circuits, no Judge goes into any County where he does not meet at least a Dozen Gentlemen return'd upon every Grand Jury, every one of whom have better Estates than he himself has —

And these not during Pleasure, which last Consideration, saves me the Trouble of shewing the Weakness of the Objection in the Third Qualification.

Ay: But it was a necessary Expedient to keep out Wood's Brats.

Are the Properties of the Commons of this Kingdom better secur'd by the Knight Errantry of that Day? In the Name of Common Sense, what are we to believe? Has the Undaunted Spirit, the Tremendous Voice of — — — — — fright'ned Wood and his Accomplices from any further Attempts? Or rather has not the ready Compliance of — — — — — encouraged them to further Tryals? The Officers and Attendants of his Court may tremble when he Frowns, but who else regards it more than they do one of Wood's Farthings.

'There is no Comparison, says another, 'between the Affair of Sir W. Scroggs and this of — — — — — Sir W. Discharged a Grand-Jury because they were about to present the Duke of York for being a Papist, but — — — — — Discharg'd the Grand-Jury for not presenting a Paper he recommended to them to present as Scandalous, (and in which, I say, he was a Party reflected on.)

I agree there is a mighty Difference, but whom does it make for?

A Grand-Jury of a Hundred (Part of a County) take upon them to Present a no less considerable Person than the King's Brother and Heir Presumptive of the Crown, the Chief Justice thinks this a Matter of too much Moment for Men of such Sort to meddle in, but a Matter more proper for the Consideration of Parliament: I wou'd not be understood to condemn the Jury; I think they acted as became Honest English Men and Lovers of their Country; But I say if Judges cou'd in any Case be allow'd to proceed by Rules of Policy, surely here was a sufficient Excuse. However the Commons impeach'd him.

The Determinations of Ignorant or Wicked Judges, as they are Precedents of little Weight, so they are but of little Danger, and therefore it will become the Commons at all Times to Animadvert most carefully upon the Actions of the most knowing Men in that Profession.

I say, my Lord, at all Times, because I hear former Merit is pleaded to screen this Action from any Inquiry.

I am sensible much is due to the Man who has always prefer'd the Publick Interest to his private Advantages as _____ has done. When a Man has signaliz'd himself, when he has suffer'd for that Principle, he deserves universal Respect. Yet Men shou'd act agreeably to the *Motive* of that Respect, and not ruin the Liberty of their Country to shew their Gratitude, and so, my Lord, where a Man has the *least* Pretence to that Character, I think 'tis best to pass over small Offences, but never such as will intail *Danger* and *Dishonour* upon Us and our *Posterity*.

The *Romans*, my Lord, when a Question was in the *Senate* whether they shou'd Ransom Fifteen thousand Citizens who had merited much by their former Victories, but losing One Battle were taken Prisoners; were determin'd by the Advice of that Noble Roman *Attilius Regulus* not to redeem them as Men unworthy their further Care, tho' probably it was their Misfortunes not their Faults lost that Day.

*Flagitio additis
Damnum: neque amissos Colores
Luna refert medicata fuco:*

He thought they were not worthy to be trusted again; To shew them Pity, in his Mind, wou'd betray the *Romans* to perpetual Danger: *Et Exemplo trahenti*

*Perniciem veniens in Arum,
Si non periret Immiserabilis
Captiva pubes.*

I hear some Precedents have been lately found out to justify that memorable Action; but if Precedents must controul Reason and Justice, if a Man may swear he will keep his Counsels secret, and yet by Precedents may be forced to Devulge them, I wou'd advise Gentlemen very seriously to Consider, the Danger we are in; and Examine what Precedents there are on each side of the Question, for my Part I think the *Commons of England* are not a worse Precedent than the Judges of *England*.

Besides it must be remembered that Precedents in some Cases will not Excuse a Judge, even where they are according to the undoubted Law of the Land, as for Instance,

Suppose a Man says what is true, not knowing it to be true, tho' it be Logically a Truth as it is Distinguish'd, yet it is *Morally False*; and so, suppose a Judge give Judgment according to Law, not knowing it to be so, as if he did not know the Reason of it at that Time, but bethought himself of a Reason or PRECEDENT for it afterwards, tho' the Judgment be Legal and According to Precedent, yet the Pronouncing of it is Unjust; and the Judge shall be Condemn'd in the Opinions of all Men: As happen'd to the Lord Chief Justice *Popham* a Person of Great Learning and Parts, who upon the Tryal of Sir *Walter Raleigh*; when Sir *Walter* objected to Reading or Giving in Evidence, Lord *Cobham's* Affidavit, taken in his Absence, without producing the Lord Face to Face, the Lord being then forth coming: The Chief Justice over-ruled the Objection, and was of Opinion it shou'd be given in Evidence against Sir *Walter*, and Summing up the Evidence to the Jury, the Chief Justice said, *Just then it came into his Mind why the Accuser shou'd not come Face to Face to the Prisoner, because, &c.* Now if any Judge has since found Precedents, or has since pick'd up the Opinion of Lawyers, I fear he will come within the Case I have put.

I foresee, if ever this Question happens to be Debated YOU KNOW WHERE, Gentlemen will be divided, Some will be desirous to do their Country Justice and free it from all future Danger of this Kind, Others upon Motives not quite so Laudable, will strive to screen, and with other private Friendship will prevail: But I wou'd recommend to your Friends, who really love their Country, to consider the several Circumstances concurring in your Lordship which probably may not in your Successor: Let them suppose a Person were to fill your Place from whose *Manifest Ignorance in the Law*, we may reasonably conclude, his Only Merit is an *Inveteracy* and *Hatred* to this Country. I say how cou'd your best Friends Excuse themselves, if in regard to your Lordship they shou'd suffer such a Precedent to be handed down to such a Man unobserv'd or uncensured?

Invenit etiam Amulos Infelix nequitia — Ambitious Men have not always been deterr'd by the Unhappy Fate of their Predecessors, *Quid si floreat vigeatque?* But what Lengths will they run if Injustice and Corruption shall ride Triumphant?

Had somebody receiv'd a Reprimand upon his Knees in a proper Place, for treating A PRINTERS JURY like Men convict of Perjury, forcing them to find a special Verdict, I dare to say he had not been quite so hardy as to have discharg'd the Grand-Jury or treated them in the Manner he did, because they had not an Implicit Faith in the Court; nor had he dar'd not to receive a Presentment made by the Second Grand-Jury against *Wood's* Farthings upon Pretence it was Informal, which I mention because the Worthy DRAPIER has mistaken the Fact.

Some of your Lordship's Skreens I hear advise you to shew great Humility and Contrition for what's past, as the only Means to appease the just Indignation all Sorts of Men have conceiv'd against you. — Were I well secur'd you will not recommend this Letter to the next Grand-Jury to be presented, I cou'd give you more SEASONABLE ADVICE, but happen as it may I will venture to give you a Little.

Fawning and Cajoling will have but little Effect on those who have had the Honour of your Acquaintance these Ten Years past, for *Caligula* who used to hide his Head if he heard the Thunder, wou'd piss upon the Statues of the Gods when he thought the Danger over — A Better Expedient is this, —

Tell Men the DRAPIER is a Tory and a Jacobite. — That he writ *The Conduct of the Ally's*. — That he writ no his Letters with a Design to keep out *Wood's* Half-pence but to bring in the Pretender, perswade them if you can, the Dispute is no longer about the Power of Judges over *Juries*, nor how much the Liberty of the Subject is endanger'd by Dissolving them at Pleasure, but that it is now become mere WHIG and TORY, a Dispute between his M — y's Friends and the Jacobites, and 'twere better to see a Thousand Grand-Juries Discharged than the Tories carry a Question tho' in the Right. — *Hec Vulnera pro Libertate publica excepi, hunc Occulum pro vobis impendi.* To this Cant, pin a Cloath over your Eyes, look very dismal, and Cry, "I was turn'd out of Employment, when the DRAPIER was Rewarded with a D — y. I fear my Lord, if you can once bring Matters thus to bear, have not the least doubt you may escape without Censure."

To your Lordship's Zeal and Industry without doubt is owing, that the *Papists* and the *Tories* have not deliver'd this Kingdom over to the Pretender, so *Caesar* conquer'd *Pompey* that *Legum Auctor et Eversor*, and 'twas but just the Liberty and Laws of *Rome* shou'd afterwards depend upon his *Will* and *Pleasure*.—The *DRAPIER* in his Letter to Lord *Molesworth* has made a fair Offer, *Secure his Country from Wood's Coyage*, then *Condemn* all he has writ and said as *False* and *Scandalous*, when your Lordship does as much I must confess it will be somewhat Difficult to Discover the *IMPOSTOR*.

Thus to keep my Word with your Lordship, I have much against my Inclinations writ this, which shall be my last upon the ungrateful Subject.—If I have leisure, and find a safe Opportunity of giving it to the Printer, my next shall explain what has long dup'd the True *Whigs* of this Kingdom, I mean *HONESTY IN THE WORST OF TIMES*.—

Tho' your Lordship Objects to my Last, that what I writ was taken out of Lord *Cooke*, Lord *Sommers*, Sir *Will. Jones*, or the Writings of some other Great Men, yet I will venture to End this with the Sentiments of *Philip de Comines* upon some *THORO-GOING* Courtiers.

If a Six-Penny Tax is to be raised, they cry by all Means it ought to be double. If the Prince is offended with any Man, they are directly for Hanging him. In other Instances, they maintain the same Character. Above all things they advise their King to make himself terrible, as they themselves are proud, Fierce, and Over bearing, in hopes to be dreaded by that Means, as if Authority and Place were their Inheritance.

I am,

My LORD,

Jan. 4. 1724.

Your Lordship's most
Obedient and most
Humble Servant.

N. N.



4 JA 55

A THIRD

LETTER



From _____ To the _____

Iustum et tenacem propositi Virum,

Non civium ardor prava jubentium;

Non vultus instantis Tiranni

Mente quatit solida.

*May 16 1792
Dine to my father
Pine pt of Pine Hor.*

AMBITION and AVARICE are Two Vices which are directly opposite to the Character of every TRUE MINISTER; For though an Increase of Power, or of Riches, may be the proper Reward of Honour and Merit, and the most Honest Statesmen, may, with Justice, accept of either: Yet, when the Mind is infected with a Thirst after them, all Notions of Truth, Principle and Independency, are lost in such Minds, and, by growing Slaves to their own Passions, they become naturally subservient to Those who can indulge and gratify them.

THE many Examples which every Age can furnish of the Mischiefs which Ambitious and Avaritious Men have brought upon the Governments they have lived under, are obvious to all Mankind. In obscure Persons, these monstrous Vices frequently lead those that are possessed of them, into Mischiefs and Villainy; and are often the Causes that have brought mean Offenders under the Hands of the Law. But whenever, for the Curse of a Government, the Greatest Statesmen are endowed with these Springs of Corruption, and Knavery, the unfortunate Subjects who live under their Influence, must fall Victims to satisfy their gluttonous Appetites, and the State they preside in, will be treated by them, as if it were given by Providence into their Hands, to gratify their Cruel and destructive Passions.

THESE Vices, when they are not strong enough to work the Mind to Publick Knavery and Villainy, frequently throw Shackles on the Hearts of Men, who would otherwise act Uprightly, and restrain them from doing that which is warranted by Justice and Honesty. How many Persons has this Country produced, in former Times, who, convinced of the True Interest of Ireland, have avoided and declined to pursue it, for fear of losing a little considerable Employment, no way suitable to their Ranks or Fortunes? Can there be a more melancholy Prospect, than to see Men of the greatest Abilities, Quality and Estates, make it their utmost Desire, to be admitted Tools to a Court, where they ought to preside, and make no other Use of the Advantages Heaven has given them, than to support those at the Helm in their Attempts to destroy the State? Neither do these misguided Persons consider, That they must, of Course, be involved in the Common Ruin, and fall the First (because they are the Greatest) Sacrifices to the Ambition and Avarice of Evil Ministers.

OUR Age affords no living Instance of this Nature such is the Care, Justice and Reputation of our Governours, and the Independency of both Houses of Parliament.

IN Publick Affairs, it is the Duty of every Man to be free from Personal Prejudices; Neither ought we to oppose any Step that is taking for the Good of our Country, purely because those that are the Contrivers and Advisers of it, are obnoxious to us. There are but too many Precedents of this Nature, where Men have cast the most Black Colours on the Wifess of Administrations, because those that had the Direction of Affairs, were their Enemies in Private Life; and this ill Way of Judging may be attended with dangerous Consequences to the Common-Weal.

INTREPIDITY and FIRMNESS are Two Virtues which every TRUE MINISTER must be master of, or else all the other Talents he is possessed of, are useless and Barren.

A MAN may be Honest Just, and Righteous; but if he is fearful and Timorous, he will stagger when these great Qualities are most needful to be exerted for the Good of his Country, and he sinks into a Lukewarm Patriot. Some Men of Integrity have been prevailed on to remain Quiet and Unactive, to avoid the Reflections cast upon them by Vulgar Tongues. We have heard of considerable Men, in late Reigns, who have retired into the Country, and left the Power of Government in the Hands of others, for fear, if they opposed the Measures then pursuing, they should be branded with the Odious Names of Fugitives and Disaffected Persons. Such Men as these who, though honest in Theory, yet fear to be so in Practice, should consider, That of all the Duties which Nature first required, and Reveald Religion has since confirm'd, None is more strong or more necessary, than that we owe to our Country. Whoever, therefore, when he has form'd a Judgment on any Subject relating to the Government, yet dreads to declare it by his Actions in that Station of Life where he is naturally called upon to do as it becomes, by his Inactivity, a Party to the very Measures his Reason blames, and his Conscience condemns.

IN England this Pusillanimity is more to be warded against, than in most other Countries; For whenever

ever there has appear'd an ill designing Minister, one of his chief Views has been to traduce and terrify those who have had the Courage to adhere inviolably to the Liberties of the Subject. This Method has been generally pursued, and the Situation of Affairs here has always furnished the Tools of a Government with Means to oblige their Masters, and obey their Commands in this Particular. But a bold and daring PATRIOT, will weigh his Actions in the Scale of Reason and Justice; and when once they are agreeable to those Principles, he will pursue his Course steadily, and despising all his Enemies can say of his Behaviour, will not suffer their Malice to be a Protection to their Wickedness. Such a PATRIOT will propose no other Prospect but the Publick Good of the Common Wealth; and if in the attaining of that Great End, by the Villainy of the Times, he should fall a Martyr to his Country, he will, with Comfort consider, That he has answered the Will of his MAKER, who sent him into the World to do Good; or dye, rather than not oppose Evil.

HERE might we go back into History, and see with what great Lustre the Names of such Heroes are deliver'd down to Posterity; and how much more they are esteem'd who perish in a Good Cause, than those who triumph in a Bad One. But this is unnecessary at present: For our Co-Temporaries, are all Friends to Justice; and no Man is injured in his Liberty or Fortune.

IT is incumbent on every Person who lives in a Common-Wealth, to promote the Welfare of it, as much as his Situation of Life will permit him; And therefore, those who act in a little Sphere, ought to exert their Zeal with as much Sincerity, as those of Greater Figure or Power. Such as can have no other Opportunities of Publishing their Thoughts, but by communicating of them to the World in Print, would be wanting in their Duty, should they neglect taking that Method of informing their Fellow-Subjects in Matters, which, perhaps, otherwise, might escape their Knowledge, tho' necessary for them to be acquainted with.

The Liberty of SPEECH in Parliament, is the Greatest Jewel that adorns our Government, and frequently has put a Stop to the Designs of bad Men, when they were attempting the Subversion of the Constitution. It has, indeed, frequently been dangerous, and often destructive, to Patriots who have made the Best Use of it; but yet there have always been, and I hope ever will be, in both Houses, Men of Honour, Honesty and Intrepidity, to employ the Talents God has endow'd them with, in the Service of their Country; and whom neither Hopes can tempt, or Fear deter from pursuing the Publick Good.

THE Freedom of the PRESS, is another Bulwark of our Liberty; and there needs no greater Argument to prove it, than the frequent Attempts that have been made to destroy it, under Pretence of Restraining of it. Wicked Men must naturally labour to have their Actions conceal'd, or, at least, so published, that every Person should credit the Glosses which they themselves throw upon them; But the Judicious Part of Mankind, will be inform'd of every Circumstance before they peremptorily give an Opinion on any Matter whatsoever.

In Civil Cases, no Man's Word ought to be taken in his own Cause, nor when he attempts to justify an Action he is accus'd of; but all Parties must be heard before the Court can proceed to give Sentence: And therefore the People of England will, in Publick Matters, expect the same Usage before they determine to Blame or Applaud any Action whatsoever, in which they are concern'd.

It is but too much the Misfortune of the Country we live in, if those in Power grow wanton in the Abuse of it, and endeavour to maintain themselves in the Enjoyment of it, by illegal and unwarrantable Measures; and any among them, shall by the Influence of their Consciences be prevail'd on to oppose such Steps as they judge wicked and dangerous, that they are stiled by the leading Men of the Party they were engaged in (and consequently reputed by their numerous Train of Sycophants and Followers, Deserters of their Friends, because such honest Men refuse to be, what they esteem Betrayers of their Country.

THERE have been Grandees only remarkable by their Greatness, and their Greatness has been all without them; They resemble certain Fruitless Mountains in some Parts of the World, which I have been in, which produce neither Herb nor Plant. They seem to touch Heaven with their stately Tops, yet serve the Earth for no manner of Use or Benefit at all. Therefore their Sterility makes their Height accurs'd.

WHAT care such Ministers how much the People are provok'd? They had rather that their whole Country should be involv'd in all the Miserie and Desolations of a Civil War, or be made a Prey to a Foreign Invader, than that they themselves should be brought to an Account before an Impartial Tribunal; for, in the first Case, they hope to shift among the Croud, but in the Second, can expect nothing but certain Ruin; for their Conscience fears presaging what will happen, they know well enough, that the Ills which they have done must be defended with greater; and if the Law Lives, that they must dye.

WHEREFORE, since such great Mischiefs naturally attend the Conduct of Evil Ministers, in whatsoever Countries they happen to preside, as the Histories of all Nations and Ages sufficiently evince, it might well be wish'd, That this or the like Prayer, were added to all the Publick Litanies of Christians, viz. "Lord! turn away from all States an Evil, which is the Cause of so many other Evils. Deny not Sovereign Princes that Spirit of Conduct, which is fit for them to govern by! Give them Understanding enough to Counsell themselves well, and to chuse their Counsellors as they ought."

To conclude; As the first Advances of Evil Ministers have been commonly BASE and SHAMEFUL, their Progress wicked, and destructive, their short Continuances attended with Hazards and Anxieties, so their Eclipses have ever been most fatal, and their Falls desperate. They are generally surpriz'd with Ruine, and their Defeat is like that of Forlorn Troops, which are cut in Pieces before they can rally, or be re-inforc'd.

I am Your LORDSHIP's &c.

N. N.

R with 2730 letters

FOURTH

LETTER



To the Right Honourable

*Qui didit patriæ quid debeat, & quid amicis,
Quo sit amore parens, quo frater amandus, & hospes,
Quod sit conscripti, quod Judicis officium, &c.*

Hor.

My LORD,

I Know not a more laudable Ambition in any Man, than that of procuring by his Credit with the People, a Place in the Legislature; and when it is procur'd this Way, it is a Testimony given by his Country to his Uprightness; and to his Capacity to serve it. This is as high an Honour as an Englishman can arrive at, and few but Englishmen can arrive at it, and the Trust is still as high as the Honour, and increases it. The Liberty, the Property, nay the Virtue, Credit, and Religion of his Country are in his Hands. Can Heaven or Earth afford stronger Motives for Diligence, Probity, and Attendance? When the Happiness, or Misery, the Security, or Bankruptcy, the Freedom or Servitude of a Nation, and all the Good or Evil which this Life affords, depends upon his Behaviour, he will find sufficient Cause from Virtue Tenderness, and Duty, to call up all his Care, Industry, and Zeal.

But so it has often happened in the World, that all the Activity and Attendance, or most of it, hath been on the wrong Side; and as the Evil that is in the World, does infinitely overbalance the Good, they who pull down, are vastly more numerous, as well as more busy, than they who build up. Vice reigns amongst Men, while Virtue scarce subsists; and in many Countries the Publick has been as vigorously assaulted, as it has been slowly and faintly defended. Thus it is, that Liberty is almost every where lost: Her Foes are artful, united, and diligent: Her Defenders are few, disunited, and inactive, And therefore we have seen great Nations, free, happy, and in love with their own Condition, first made Slaves by a handful of Traytors, and then kept so by a handful of Soldiers: I mean a handful in Comparison of the People, but still enough to keep them in Chains.

Before the Conquest when the Judge or *Præfatus Comitatus* was Eligible by the People, it is to be remark'd that the King was generally the

Person that prosecuted the Judges to Punishment, as King *Alfred* did, and several others; particularly King *Edgar*, who us'd frequently to make a Progress for that purpose; but after the appointment of the Judges fell into the Hands of the Crown, the People were commonly the Complainants in Parliament.

In the 17th of the Reign of *Edward* the first, whom my Lord *Coke* calls the Wisest King that ever was, Twelve Judges were punish'd very heavily, but in a Parliamentary Method. Sir *Ralph de Hengam* Chief Justice of the King's-Bench, was fin'd 7000 Marks. Sir *Thomas Weyland* Chief Justice of the Common-Pleas, was Attainted of Felony; and Sir *Adam de Stratton* Chief Baron of the *Exchequer* (an Exquisite Rogue that had got a prodigious Estate) was fin'd 34000 Marks, which amounted to 2266 l. 13 s. 4 d. *Sterling*, and was reckon'd an immense Sum in those Times.

Of this Passage *Walsingham* says, Folio 34 *Justitarios omnes de falsitate deprehensos a suo officio deposuit ipsos Juxta merita gravi puniens multa.*

In the 24th Year of the Reign of *Edward* the Third, who was reckon'd a very Wise Prince too, Sir *William Thorp*, Chief Justice of the King's-Bench, for taking five Bribes that came to no more than 100 l. was adjudg'd to be Hang'd in Parliament.

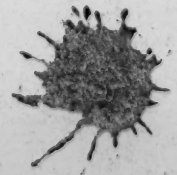
The Reason of the Judgment is enter'd in the Roll in these Words,

Quia prædictus Willielmus Thorpe, qui Sacramentum domini Regis Erga populum suum habuit ad Custodiendum fregit malitiose falso & re belliter quantum in se potuit.

And 'tis entered into the Roll that this Judgment shou'd not be a President in Respect of any other Oath but that of a Judge.

This Judgment was question'd afterwards in Parliament the 25th of *Edward* the 3d, Numero 3d, and was declar'd to be Law, *Nemine Contradicente*; and I take the same Law to be in all Cases, where a Judge breaks his Oath, falso & malitiose.

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malitiose (i. e.) wittingly. *Thorpe's* Oath is entered in the Roll, which is the same with the Judges Oath, the 18th of *Edward* the 3d, which I suppose the Judges take here.

And I do conceive the Judges fall under the same Penalty, where they give any Extrajudicial Opinions contrary to Law knowingly, being bound by their Oaths to Counsel the King according to Law.

In the beginning of the Reign of *Henry* the 8th, Two Barons of the *Exchequer*, viz. Sir *Richard Empson* and *Edmund Dudley* were Beheaded on *Tower-Hill*.

Their Case was thus, *Henry* the 7th, in the 11th Year of his Reign, had brought the Lords and Commons into an Act, under the Specious Pretences of the Glory of God, and the Good of the People, as appears by the Preamble, that put it into the Power of the Justices of the Peace and of other Commissioners, to determine Offences against Penal Laws, in a summary Way at their Discretion without a Jury

Reader Note this The ill Consequences of this Statute, are a sufficient Experiment to convince every free born *English-man* of the Value of the Juries, and justify the Blood and Treasure that has been spent, in contending for every Letter of *Magna Charta*, the great Foundation of our Liberties. My Lord *Coke*, who was always in a great Passion, at every Invasion of the Fundamentals of the Common Law, was so free with this Statute, as to call it sometimes most unjust and strange, and at other times Injurious, and he makes bold to give a Caveat to Parliaments, to leave all Causes to be measured by the golden and strait Metewand of the Law, and not to the uncertain and crooked Cord of Discretion.

I have mention'd his very Words for the Elegance of the Metaphors, whereby he seems to compare a discretionary Power in the Judge, to a Cord or Rope in the Hands of the Hangman.

The Statute cou'd not bite without Teeth, Hands were necessary to put it in Execution, *Empson* and *Dudley* were thought proper for so great a Trust; and how these Judges behav'd themselves when they had Power to Act without a Jury, which I take to be the same, as when they have Power to influence a Jury by Fines or Rules of Court; I shall leave to the Historians to relate, but it cost them their Lives.

Seed and *Bacon* give an Account of them at large to which I refer the Reader, the Copy of an Indictment of one of them follows hereafter for the Abuse of Justice.

It is with much Concern, that I must Remember, that this *Bacon* who was Lord High Chancellor of *England*, in the Reign of *James* the 1st, tho' *Empson* and *Dudley* most opprobrious Names in his History, fell into as great an Error himself.

He happen'd to be detected in Parliament, for Selling Interlocutory Orders in his Court. Which

indeed is as great an Instance of human Frailty as that of *Peter* in denying his Master.

He had censured this Crime with the utmost Abhorrence in several of his Writings, particularly in his Essay upon the Office of a Judge.

However led by Necessity and Want, into so great a Piece of Wickedness, his noble and ingenious Nature wou'd not let him make any Defence. He confess'd the Fact, condemn'd himself, and seem'd to take a Pleasure in the Good, so great an Example of Justice wou'd do to Mankind as appears by his Letter to the Lords, of which you have a Copy hereafter.

He was the *Columbus* of the learned World, a continual Benefactor to all Men; having given as great Light to the World, almost as the Sun it self, by his Discoveries, but notwithstanding the Learning of this great Man, his Life but narrowly escap'd, and tho' they wou'd not let such a useful part of the Creation Dye (the like of which had scarce ever been known before) yet he was depriv'd of his Office, fin'd and reduc'd to Beggary.

A Stout and great learned Judge has preserv'd a Nation of which I have given an Instance hereafter; and it may be that the King trusted to their Judgment and Authority more than all the rest, and therefore the Retracting their opinions after they had probably engag'd the King in such Measures that he could not extricate himself from with Honour or Safety, makes a double Charge upon them.

Such may most properly be call'd the Executioners of the Royal Martyr, for whatever his good and tender Inclinations for his Servants, and pretended Friends, might lead him to, his Judgment was form'd by these Men, that he rely'd upon as a Common Umpire between him and his People; and they undoubtedly have Accounted before God by this time, for abusing the Princely Vertues of their Master, whereby he was put at Enmity with his best Subjects; and afterwards fell into the Hands of the worst.

In the Reign of *Car. II.* some wise Men, that were no Enemies to the Royal Family, but were for preventing what happen'd afterwards, promoted the Bill to exclude the Duke of *York* from succeeding to the Crown. To obviate this, the Duke pretends himself to be a Protestant, and every Body that said or wrote any thing to the contrary, or otherwise to his Prejudice, was to be punish'd by the Course of Law; but Truth was not to be suppress'd without taking away the Freedom of Juries, that great Inquisitor of Truth, the Light of the Constitution, and the Bulwark of Liberty, whose Word is call'd *Verdictum*, or *Dictum veritatis*.

One Method they took was thus, if the Juror took upon him to give his Verdict contrary to what the Judge held to be Evidence, he

fin'd

fin'd him as for a Contempt, which destroy'd the Indifference and Impartiality of Juries, and resolv'd all again into the discretionary Power of the Judge, who cou'd make a Juror say what he pleas'd upon pain of being fin'd, which confounded the several Jurisdictions of Law and Fact, and defeated the whole Intent and Policy of the Institution.

The Recorder of London, I think, was the first Beginner of it; but the Matter coming by a *Habeas Corpus* into the *Common Pleas* in the Case of *Bushel*, the Fine was resolv'd to be void. The Folly and Absurdity of it is fully expos'd in *Vaughan's Reports*, to which I refer the Reader; for the Judges of the *Common Pleas* happen'd to be Men of Integrity and Fortune, that would not transmit Chains to their Posterity, or cut the Sinews of their own Inheritance, by weakning its greatest Security, which wou'd not only impair the Title, but likewise the Valuation.

But they made other Judges that put all their Projects in Execution, which *Sidney*, one of the Martyrs of Liberty in his Dying Speech, calls Blemishes to the Bar. Some of them were such poor hungry Wretches, that they would have been suspected in the High-ways, and much more in the Courts of Justice: They stuck at nothing, they were impeach'd, Bills to exclude the Duke, and to create Judges for Life, were urg'd but frustrated by the Court. Several honest Men were murder'd and other remov'd, and King *James* mounted the Throne. Then the Whore of *Babylon* threw off her Mask, and shew'd her Nakedness; he own'd his former Hypocrisy, declar'd himself a Papist, took the Coronation Oath, and it immediately, by trampling upon all Laws both Humane and Divine. Certainly he took himself to be Indefeasible, and out of the reach of mortal Men; and indeed the Priests and the rest of his Flatterers might have easily perswaded him, that he was *Comes syderum & Frater Luna*, as the *Persian* Emperors us'd to style themselves.

And that Sycophants and Time-servers may blush at their own Cowardice and Iniquity, I will mention some Instances of the heroick Courage, and unshaken Integrity of some of the Sages of the Law.

Sir *William Gascoigne*, in the Reign of *Henry* the 4th. committed the Prince and Heir Apparent of the Crown to a Tipstaff, for a Contempt to the Court: The Prince submitted, and the King applauded him for it.

In the time of Queen *Elizabeth*, a Project was hatching to raise Money without Parliament by the Courtiers, who possess'd the Queen with a Notion of the Legality of it; the Method was by Letters from the Lords of the Council, on the pretence of the Wars of *Ireland*: Justice *Walmsley* had a Letter amongst others directed to him, but he wou'd not pay one Penny. The Queen hearing that a learned Judge, that was

dependant upon her for his Place, disputed Payment, began to suspect that she had been abus'd, and that there was something in the Wind, and therefore caus'd him to be conven'd before the Council, where she heard him her self, and he inform'd her, that such a Method of levying Money was contrary to her Coronation Oath, of which he was one of the Conservators, and that by the Vertue of the Oath of a Judge, he was oblig'd to let her know it; whereupon she order'd the Money to be restor'd that had been Levy'd.

And indeed nothing can be more properly be call'd High Treason *Lesa Majestas*, or a mortal false Judgment, than that which Misguides Kings, and brings their Royal Estate, and even their Lives sometimes in Danger. The Legicides are truly the Regicides.

I doubt not but all these Patriots that Preserve the Memory of *Alfred* the Founder, and *William* the Restorer will be of the same Opinion.

My Lord *Coke* in his Pleas of the Crown says, that King *Alfred's* Law against false Judges was Antiquated, but he was then Antiquated himself and in his Dotage, for it was one of the first Principles in our Constitution like that of self Preservation, in natural Beings, and has often exerted it self since. *Vid. Pryn upon Coke.*

Nothing is more Rational than that the Law should have a Power of Avenging it self upon it's Murderers. 'Tis Capital says Mr. *Pym* to Cut the Banks in *Holland*, which lie under the Superficies of the Water. And *Comines* observes that our *Stat. de Tallagio non concedendo*, and other old Laws, as Walls and Banks against Arbitrary Power, which is more dreadful to an *English* Man than all the Dangers of the Sea, being like the Inundation of the Nile, which confounds Property and Defaces all the Land-Marks; and to which we owe the Skill and Fame of the *Egyptian Geometricians*.

If the ordinary Course of Justice wou'd not reach them, 'twould be justifiable for the Legislature to interpose, as has been often done, where the King, Lords and Commons have been agreed; but I have omitted all Instances of that Kind, as being unnecessary, and of which I do not approve without the utmost Necessity.

The Kings of *England* have granted all the Constitutions of *Alfred* to the People of *Ireland*, but I dont find any Example that has ever been made here for their Preservation, which seems to be reserv'd for a *Georgic*, being the greatest Improvement to Land, to adorn the glorious Reign of King *George*, who is govern'd by God, the Rightful and Lawful Heir of *Alfred*, and a Religious observer of

of his Laws, as *Emanuel Cermenus* was styl'd in respect of the Emperor *Constantine*.

I must own, that Justice unless it is mixed with Mercy, which is another Attribute of God, whom we ought to imitate, rather seems Vindictive than Exemplary, and a few Examples will answer the true Ends of making them if they are severe, which cannot be too great in the Case of a false Judge whose Punishment never was reckon'd an Act of Cruelty, but rather of Popularity, for as *Thucydides* observes, Mankind resent Injustice in a Magistrate from whom they expect Protection more than open Violence or Robbery on the Highways; and indeed the Doctors and Teachers both of the Law of God and Man, that are appointed as Lights and Guides to Sovereigns and their Subjects, are properer Objects of Vengeance than those that have been abus'd or misled by them; which to my Knowledge, has been the Case of many worthy and well meaning Men, and no Body is so Infallable, but it may be his own Case one time or another.

There are a great many Instances of the Punishment of Judges in foreign Countries, some of them seem to be wittily Cruel: I will only mention one.

Cambyfes the King of *Perfia* caus'd *Sysamnes* a Judge to be Flead, and put to Death; and a Cushion to be made of his Skin (which was Dressed with a great deal of Curiosity for the Purpose) for the Bench where he Sate, and that the Example might have a greater Influence upon the Successor, and that the Father's Skin might be a perpetual Monitor of Justice to him, he prefer'd *Otanes* his Son to his Place.

I shall conclude with the Lord *BACON*'s Letter to the House of Lords.

MAY it please your Lordships, I shall humbly crave at your Hands, a benign Interpretation

of which I shall now write, for Words that come from wasted Spirits, and of priss'd Minds; are more safe in being deposited to a Noble Construction, then being Circled with any reserv'd Caution; this being moved, and, as I hope, obtain'd of your Lordships as a Protection to all that I shall say. I shall go on, but with a very strange Entrance as may seem to your Lordships; as first, for in the Midst of a State of as great Affliction as I think a mortal Man can endure, Honour being above Life: I shall begin with the professing of Gladness in some Things. The first is, that hereafter the Greatness of a Judge, or Magistrate, shall be no Protection to him against Guiltiness, which is the Beginning of a Golden Work: The next that after this Example, 'tis like that the Judges will fly from any Thing in the Likeness of Corruption, tho' it were at a great Distance, as from a Serpent which tends to the Purging of the Courts of Justice; and reducing them to their true Honour and Splendor. And in these two Points, God is my Witness, tho' it be my Fortune to be upon the Anvil, upon which these two Effects are broken and wrought, I take no small Comfort. But to pass from the Motions of my Heart, whereof God is my Judge to the meanest of my Cause, whereof your Lordships are Judges under God and his Lieutenant. I do understand there hath heretofore been expected from me some Justification. And therefore I have chosen only one Justification for all others, out of the Justification of Job; for after the clear Submission and Confession which I shall now make unto your Lordships, I hope I may say, and justly wish Job in these Words, I have not hid my Sins with Adam, nor concealed my Faults in my Bosom. This is the only Justification I will use, &c. And then he proceeds and confesses the Fact.

I am,

Your Lordships, &c.

N. N.